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Brunei Darussalam

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full text, please refer to the document referenced. The present report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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Please recycle

I. Background and framework

A. Scope of international obligations[1]

International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified/not accepted*
Ratification, accession or succession	CEDAW (2006)		ICERD
	CRC (1995)		ICESCR
	OP-CRC-SC (2006)		ICCPR
	CRPD (signature only, 2007)		ICCPR-OP 2
			CAT
			OP-CAT
			OP-CRC-AC
			ICRMW
			CPED
Reservations, declarations and/or understandings	CEDAW (General reservation, including arts. 9, para. 2 and 29, para.1, 2006)		
	CRC (General reservation, including arts. 14, 20 and 21, 1995)		
Complaint procedures, inquiry and urgent action[3]			ICERD
			OP-ICESCR
			ICCPR
			ICCPR-OP 1
			OP-CEDAW
			CAT
			OP-CRC-IC
			ICRMW
			OP-CRPD
			CPED

Other main relevant international instruments[4]

	Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession	Geneva Conventions of 12 August 1949 and Additional Protocols I and II[5] ILO fundamental convention No.138[6] UNESCO Convention against Discrimination in Education	ILO Convention No. 182[7]	Palermo Protocol[8] Convention on the Prevention and Punishment of the Crime of Genocide ILO fundamental conventions except Nos.138 and 182[9] Conventions on refugees and stateless persons[10] Rome Statute of the International Criminal Court ILO Conventions Nos. 169 and 189[11] Additional Protocol III to the 1949 Geneva Conventions[12]

1. While noting the general reservations of the Government of Brunei Darussalam to CRC and CEDAW, the Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that the Government review its broad reservations to those treaties, in order to improve its accountability for international obligations, and review national legislation in conformity with the above-mentioned conventions and international obligations.[13]

2. The United Nations Economic, Social and Cultural Organization (UNESCO) stated that Brunei Darussalam had been party to the 1960 UNESCO Convention against Discrimination in Education since 1985. However, it did not report to UNESCO on the measures taken for the implementation of the 1960 UNESCO Recommendation against Discrimination in Education within the framework of the sixth consultation of member States (covering the period 1994–1999), seventh consultation of member States (covering the period 2000–2005) and eighth consultation of member States (covering the period 2006–2011).[14]

3. UNESCO also stated that the Government of Brunei Darussalam had recently taken important steps towards protecting cultural rights through the ratification of the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage and the 2003 Convention for the Safeguarding of Intangible Cultural Heritage.[15]

4. UNHCR stated that, notwithstanding the fact that there were currently no asylum seekers and refugees in the country, accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the establishment of a national legal framework would establish a clearer basis for the Government of Brunei Darussalam to provide refugees with international protection should anyone seek asylum there in future. In that connection, UNHCR recommended that Brunei Darussalam accede to the Convention and its Protocol and enact a national refugee law to establish procedures for the determination of refugee status and spell out the rights of refugees in the country.[16]

5. UNHCR also stated that Brunei Darussalam was not a party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. Accession to those conventions would establish a stronger framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons.[17]

B. Constitutional and legislative framework

6. UNESCO noted that the 1959 constitution of Brunei Darussalam, as last amended in 2008, did not guarantee the right to education. It did not contain any provision regarding education or the principle of non-discrimination.[18]

7. UNESCO also noted that the basic legislative framework for education in Brunei Darussalam consisted of the Education (Non-Government Schools) Act (chapter 55), 1984, which was repealed by the Education Order of 31 December, 2003; the Compulsory Education Order, 2007; the Child Care Centre Order, 2006; and the Education (Brunei Board of Examinations) Law, 1984.[19]

C. Institutional and human rights infrastructure and policy measures

8. While noting the efforts of Brunei Darussalam to register births, UNHCR recommended that the Government of Brunei Darussalam continue its outreach programme, under which it made presentations related to birth registration, and evaluate if more areas of the country needed to be covered or more steps taken to ensure access to universal birth registration.[20]

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies[21]

Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
CEDAW	–	2013	–	Initial and second report pending consideration
CRC	October 2003	–	–	Second and third reports overdue since 2008. Initial OP-CRC-SC report overdue since 2008.

B. Cooperation with special procedures[22]

	Status during previous cycle	*Current status*
Standing invitation	No	No
Visits undertaken	None	None
Visits agreed to in principle	None	None

	Status during previous cycle	*Current status*
Visits requested	None	None
Responses to letters of allegations and urgent appeals	*During the period under review one communication was sent. The Government did not reply to that communication.*	

III. Implementation of international human rights obligations

A. Equality and non-discrimination

9. UNHCR noted that under the Brunei Nationality Act, only fathers could confer their nationality on their children. In that connection, UNHCR recommended that Brunei Darussalam reform the Nationality Act to address the concerns of the Committee on the Rights of the Child regarding equality between women and men in their ability to confer their nationality on their children.[23]

B. Right to life, liberty and security of the person

10. In its direct request adopted in 2011, the ILO Committee of Experts on the Application of Conventions and Recommendations requested the Government to redouble its efforts to ensure the effective monitoring of the sale and trafficking of children and to provide information on measures taken to strengthen the capacity of immigration officials to combat the trafficking of children. It also requested the Government to provide information on the application of the provisions of the Trafficking and Smuggling of Persons Order prohibiting the sale and trafficking of children including, in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed.[24]

11. In its direct request, the Committee of Experts noted that Brunei Darussalam did not have a proactive system to formally identify victims of trafficking among vulnerable groups, such as foreign workers and foreign women and children in prostitution, and that the Government had not implemented training for its officials on identifying trafficking victims. It also observed that children of migrant workers were at increased risk of becoming victims of sale and trafficking and requested the Government to take effective and time-bound measures to ensure that this group of children were protected from that worst form of child labour.[25]

12. The Committee observed that the use of children under 18 years for prostitution, i.e. by a client, did not seem to be prohibited. Furthermore, it observed that only the procuring and offering of girls under 18 years of age appeared to be prohibited by national legislation. The Committee reminded the Government that article 3 (b) of ILO Convention No. 182 required member States to ensure that the use, procuring or offering of both boys and girls under 18 years of age for prostitution is strictly prohibited. The Committee therefore requested the Government to take the necessary measures to ensure that the use, procuring or offering of both boys and girls under the age of 18 for the purpose of prostitution was prohibited.[26]

13. The Committee also noted that there did not appear to be a provision in national laws specifically prohibiting the use, procuring or offering of a child for the production of pornography or pornographic performances, as required by article 3 b) of Convention No. 182. The Committee requested the Government to indicate the measures taken or envisaged

to ensure that the use, procuring or offering of boys and girls under 18 years of age for the production of pornography or pornographic performances was prohibited.[27]

14. Furthermore, the Committee requested the Government to take the necessary measures to ensure that sufficient up-to-date data on the prevalence of the worst forms of child labour in the country is made available, particularly with regard to child trafficking. It also requested the Government to provide that information and any additional available information on the nature, extent and trends of the worst forms of child labour and the number of children protected by the measures giving effect to Convention No. 182. To the extent possible, the information should be disaggregated by age and sex.[28]

C. Freedom of expression

15. UNESCO noted that freedom of expression and press freedom were limited in Brunei Darussalam by various legal provisions. The Local Newspapers Order (1958/2001) made it mandatory to obtain annual publishing permits from the Minister of Home Affairs for starting a newspaper. The Minister could refuse, suspend or revoke licences without giving a reason and those decisions were not subject to appeal or judicial review.[29]

16. UNESCO noted that the Sedition Act included a penalty of up to three years of imprisonment for publishing materials with seditious intentions, including materials critical of the royal family. It also noted that the Undesirable Publication Act empowered the Minister to prohibit importation or sales of publications deemed to be against the public interest. Additionally, the Internal Security Act allowed the authorities to detain an individual without charge or trial for a period of up to two years, which could be further lengthened indefinitely in the name of maintaining public order.[30]

17. UNESCO also noted that, under article 500 of the penal code, defamation was criminalized by up to five years' imprisonment and a fine.[31]

18. UNESCO recommended that Brunei Darussalam implement reforms to bring its laws and practices into line with international standards for press freedom and freedom of expression, including the Sedition Act, the Local Newspapers Order (1958/2001), the Undesirable Publication Act, the Internal Security Act and the penal code. UNESCO also recommended that Brunei Darussalam be encouraged to begin introducing a freedom of information law in line with international standards and introduce self-regulatory mechanisms for the media.[32]

D. Right to work and to just and favourable conditions of work

19. The ILO Committee of Experts reminded the Government that, under article 3 (d) of ILO Convention No. 182, children under 18 years of age should not perform work, which by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals and that this applies to both industrial and non-industrial undertakings. The Committee requested the Government to take the necessary measures to develop and adopt a list determining the types of hazardous work prohibited for persons under 18 years of age, in consultation with the organization of employers and workers concerned. In this regard, the Committee also requested the Government to indicate whether the Minister of Labour had declared any industrial undertaking to be an undertaking in which no young person shall be employed.[33]

20. While noting information from the Government that the National Children's Council, established and officially launched in 2001, is responsible for monitoring the rules and regulations pertaining to children, the Committee requested the Government to provide

information on the role of the Council with regard to the prevention and elimination of the worst forms of child labour and on the results achieved.[34]

E. Right to education

21. UNESCO noted that the right to education was highlighted in the Education Policy, 1992, whereby at least 12 years education is offered for all children: 1 year of pre-school, 6 years of formal primary education, 3 years of lower secondary and 2 years of upper secondary or vocational/technical education.[35]

22. UNESCO recommended that Brunei Darussalam be encouraged to implement awareness-raising projects and activities to combat discriminatory attitudes, promote the right to education for all and further its efforts to promote human rights education and training.[36]

F. Cultural rights

23. According to UNESCO, one key challenge for Brunei Darussalam concerns the need to increase the capacity of key stakeholders, especially community members, Government, non-governmental organizations (NGOs) and other organizations, regarding the mechanisms for safeguarding its tangible and intangible cultural heritage. This is especially the case with regard to the protection of the intangible cultural heritage, where Brunei Darussalam faces a number of challenges, including acquiring sufficient national funds and the expertise available for the specific area of the protection of its intangible cultural heritage and the need to develop legal and institutional frameworks to safeguard it and create greater capacity and knowledge among governmental staff, NGOs and community groups involved in its protection.[37]

G. Migrants, refugees and asylum seekers

24. UNHCR noted Government reports that there were no asylum seekers or refugees in the country. As of 30 December 2012, the Government reported a stateless population of 21,009 persons.[38] UNHCR also noted that since 2012, the Government had shared statistics with it on the number of registered stateless people, who are permanently resident in the country, including the numbers of stateless people who have acquired Brunei Darussalam nationality.[39]

25. As such, UNHCR welcomed the steps that the Government of Brunei Darussalam was taking to facilitate the integration and naturalization of stateless persons who are permanent residents. It was reported that 2,420 stateless persons acquired Brunei Darussalam citizenship between the beginning of 2009 and the end of 2012 as a result.[40]

Notes

[1] Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Brunei Darussalam from the previous cycle (A/HRC/WG.6/6/BRN/2).

[2] The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art.5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: CPED, art. 30.

[4] Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Brunei Darussalam from the previous cycle (A/HRC/WG.6/6/BRN/2).

[5] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

[6] International Labour Organization Convention No. 138 concerning Minimum Age for Admission to Employment..

[7] International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

[8] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[9] International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation.

[10] 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating

to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

[11] International Labour Organization Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries and Convention No.189 concerning Decent Work for Domestic Workers.

[12] Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

[13] Submission by UNHCR, p. 6.

[14] Submission by UNESCO, para. 9.

[15] Ibid., para. 13.

[16] UNHCR, p. 3.

[17] Ibid., p. 3.

[18] UNESCO, para. 2.

[19] Ibid. para. 3.

[20] UNHCR, p. 5.

[21] The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Committee on the Rights of Persons with Disabilities
CED	Committee on Enforced Disappearances
SPT	Subcommittee on Prevention of Torture.

[22] For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.

[23] UNHCR, p. 4.

[24] See http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2700676:NO, visited on 14 November 2013.

[25] Ibid.

[26] Ibid.

[27] Ibid.

[28] Ibid.

[29] UNESCO, para. 15.

[30] Ibid., paras. 16–18.

[31] Ibid., para. 19.

[32] Ibid., paras. 28–30.

[33] See http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2700676:NO.

[34] Ibid.

[35] UNESCO, para. 5.

[36] Ibid., paras. 24 and 25.

[37] Ibid., para. 14.

[38] UNHCR, p. 1.

[39] Ibid.

[40] Ibid., p. 2.